

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

APR 25 2018

Clerk, U S District Court
District Of Montana
Billings

RICHARD R. REDFIELD,

Plaintiff,

vs.

MIKE LINDER and FELICA KELLY,

Defendant.

CV 17-121-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

Before the Court are Magistrate Judge Timothy Cavan's Findings and Recommendations filed on April 9, 2018. (Doc. 12). Judge Cavan recommends that this Court dismiss Redfield's action for failure to state a federal claim. (*Id.* at 1).

Pursuant to 28 U.S.C. § 636(b)(1), the parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendations. No objections were filed. When neither party objects, this Court reviews Judge Cavan's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error. Therefore,


IT IS ORDERED the proposed findings and recommendations entered by United States Magistrate Judge Cavan (Doc. 12) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that this matter is DISMISSED for failure to state a claim.

IT IS ALSO ORDERED THAT the Clerk of Court is directed to close this matter and enter judgment in favor of Defendants pursuant to Rule 58 of the Federal Rules of Civil Procedure. The Clerk of Court is also directed to have the docket reflect that the Court certifies that pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure any appeal of this decision would not be taken in good faith. The record makes plain that the Complaint lacks arguable substance in law or fact.

The Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Redfield failed to state a claim upon which relief may be granted.

DATED this 25th day of April 2018.


SUSAN P. WATTERS
United States District Judge